

**BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2021-93-E**

Dominion Energy South Carolina,
Incorporated's Request for Like Facility
Determinations Pursuant to S.C. Code Ann.
§58-33-110(1) and Waiver of Certain
Requirements of Commission Order No. 2007-
626

**PARTIAL SETTLEMENT
AGREEMENT BETWEEN ALL
PARTIES AND PROPOSED SCHEDULE
FOR FUTURE PROCEEDINGS**

This Settlement Agreement is made by and between Dominion Energy South Carolina, Inc. ("DESC"), the South Carolina Office of Regulatory Staff ("ORS"), the Carolinas Clean Energy Business Association, the Sierra Club, the South Carolina Coastal Conservation League and the Southern Alliance for Clean Energy, and BrightNight, LLC ("Intervenors") (collectively referred to as the "Parties");

WHEREAS, on March 10, 2021, DESC requested certain determinations from the Public Service Commission of South Carolina (the "Commission") related to its plan to construct five aeroderivative units at its Urquhart, Bushy Park, and Parr Stations (the "Units").

WHEREAS, DESC requested (a) a like-facility determination pursuant to S.C. Code Ann. §58-33-110(1) concerning the two units planned for Urquhart Station; and (b) a determination that the requirements of Commission Order No. 2007-626 and Order No. 2018-804(A) which relate to requests for proposals ("RFPs") did not apply to any of the five Units; or (c) in the alternative to request (b), for a waiver of RFP requirements for the five Units.

WHEREAS, in the more than seven months following DESC's filing of the request, ORS and other Parties have conducted discovery related to the request;

WHEREAS on October 18, 2021, DESC filed verified pre-filed direct testimony providing the factual basis for its requests;

WHEREAS, in its pre-filed direct testimony and earlier filings, DESC indicated that notwithstanding the pending request for a waiver of the RFP requirement, it was conducting an all-source RFP concerning the Units, the results of which it expects to be available in early 2022;

WHEREAS, on October 12, 2021, the Sierra Club, South Carolina Coastal Conservation League, the Southern Alliance for Clean Energy, and the Carolinas Clean Energy Business Association (collectively “Movants”) filed a joint motion to modify the procedural schedule related to DESC’s requests, seeking, among other things, a Commission directive to DESC to pause the all source RFP until after the Commission issues a decision on the legal issues;

WHEREAS, the Parties have engaged in discussions concerning these matters and in the spirit of compromise have reached the following consensus agreement and stipulation to limit the issues in dispute among them and to provide for a reasonable procedural schedule for the conclusion of this matter;

NOW THEREFORE, the Parties hereby stipulate and agree to the following:

1. The relief requested by DESC should be granted with respect to the Parr and Bushy Park Units such that neither further proceedings under the Siting Act nor an RFP under Commission Order No. 2007-626 or 2018-804(A) shall be required for those Units.
2. The Parties request that the Commission hold in abeyance the hearing and all future procedural matters associated with the proposed Urquhart Units until DESC receives the results of an all source RFP, to be developed through the RFP stakeholder process described below, in relation to the Urquhart replacements.

3. As part of the RFP development process, the Parties will work collaboratively to develop an RFP that, *inter alia*:

- A. Includes the use of Charles River Associates, or another mutually agreed upon third-party, as an independent evaluator and monitor who will be responsible for administering the RFP, ensuring fair and equal evaluation of responsive bids, and serve as a third-party stakeholder engagement facilitator. After consultation with the independent evaluator and monitor, DESC shall approve and adopt the RFP requirements and evaluation criteria and make the RFP award.
- B. Includes the evaluation of costs and benefits to the utility system and ratepayers that extends beyond mere replacement of existing capacity, if such benefits are additional to and reasonably consistent with the intended capacity replacement,
- C. Accurately characterizes the minimum needs for reliability-related services,
- D. Provides for broad technology neutral participation of supply-side, demand-side, hybrid, and distributed resources, consistent with ensuring system reliability, including consideration of a portfolio of resources as the least cost replacement, provided however, that in the context of this RFP, resources bid into the RFP must individually or in combination with other partial bids supply each necessary component of the RFP, including capacity, black start, voltage support, and other ancillary services so as to qualify for consideration as meeting the RFP requirements, and

- E. Allows bids for less than the total amount of capacity or services needed, such that DESC and the independent evaluator and monitor can construct portfolios of resources that, in combination, meet system needs.
- F. During the RFP stakeholder process, the independent evaluator and monitor shall document in written minutes each and every objection or proposal for modification to the RFP requirements and process raised during the stakeholder process. If consensus on the RFP documents and process has not been reached at the conclusion of the RFP stakeholder process, then the independent evaluator and monitor shall prepare a statement of the unresolved issues as reflected in the written minutes. The Company will promptly file that statement with the Commission in Docket No. 2021-93-E accompanied by a request that the Commission make a final determination as to the contested issues and convene a hearing as soon as possible but no later than sixty (60) days after the Company's filing. Within thirty (30) days of the Company's filing, all parties may file prefile direct testimony setting forth their positions concerning the contested matter. Parties may file rebuttal testimony within fifteen (15) days in response to the other parties' direct testimony. Objections or comments not raised by a party in the stakeholder process, as reflected in the written minutes, may not be raised in proceedings challenging the RFP.

4. DESC agrees to make public the identity of the responsive bidders, and the details of all bids received (capacity, type, size, cost, etc.), anonymized, so the specific bidder is not revealed in conjunction with any bid, and confidentiality is maintained, and provide a detailed

report or prefiled supplemental direct testimony from the independent evaluator and monitor that transparently explains the evaluation process used to select bids.

5. The Parties further request that the Commission suspend the current deadlines for filing of testimony in this docket until the all source RFP for the Urquhart replacements is completed. Instead, as soon as reasonably possible, DESC shall file supplemental direct testimony setting forth the proposal following the all source RFP for the Urquhart replacements. The Parties request that the Commission then establish a prefiling schedule giving the other Parties thirty (30) days to prefile their direct testimony, and giving DESC fifteen (15) days to pre-file rebuttal testimony.

6. Nothing in this agreement or proceeding shall constitute a final determination of the reasonableness or prudence of any costs incurred by DESC related to the replacement units at Bushy Park, Parr, or Urquhart. The reasonableness and prudence of any costs incurred by DESC related to the replacement of the Bushy Park and Parr units, as well as any investments made by DESC following the all source RFP related to the Urquhart replacements, shall be subject to review in the appropriate future proceedings.

[SIGNATURE PAGES FOLLOW]

WE AGREE:

Representing Dominion Energy South Carolina, Inc.

A handwritten signature in blue ink, appearing to read 'K. Chad Burgess', is written over a horizontal line.

K. Chad Burgess, Esquire
Matthew W. Gissendanner, Esquire
Mail Code C222
220 Operation Way
Cayce, South Carolina 29033-3701
Phone: (803) 217-8141 (KCB)
(803) 217-5359 (MWG)
Fax: (803) 217-7810
Email: chad.burgess@dominionenergy.com
matthew.gissendanner@dominionenergy.com

Belton T. Zeigler, Esquire
Womble Bond Dickinson (US) LLP
1221 Main Street, Suite 1600
Columbia, SC 29201
Phone: 803-454-7720
Email: belton.zeigler@wbd-us.com

WE AGREE:

Representing the South Carolina Office of Regulatory Staff



Andrew M. Bateman, Esquire

Alexander W. Knowles, Esquire

South Carolina Office of Regulatory Staff

1401 Main Street, Suite 900

Columbia, South Carolina 29201

Phone: 803-737-0889

Fax: 803-737-0895

Email: abateman@ors.sc.gov

aknowles@ors.sc.gov

WE AGREE:

Representing South Carolina Coastal Conservation League and Southern Alliance for Clean Energy

Handwritten signatures of Kate Lee Mixson and Emma C. Clancy.

Kate Lee Mixson, Esquire
Emma C. Clancy, Esquire
Southern Environmental Law Center
525 East Bay Street, Suite 200
Charleston, SC 29403-7204
Phone: 843-720-5270
Fax: 843-414-7039
Email: kmixson@selcsc.org

WE AGREE:

Representing Sierra Club

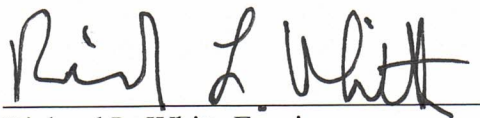
A handwritten signature in black ink, appearing to read 'D. Jaffe', written over a horizontal line.

Dorothy E. Jaffe, Esquire
50 F Street NW, 8th Floor
Washington, DC 20001
Phone: 202-675-6275
Email: dori.jaffe@sierraclub.org

Robert Guild, Esquire
314 Pall Mall Street
Columbia, SC 29201
Phone: 803-917-5738
Email: bguild@mindspring.com

WE AGREE:

CAROLINAS CLEAN ENERGY BUSINESS ASSOCIATION

A handwritten signature in black ink, reading "Richard L. Whitt". The signature is written in a cursive style with a horizontal line underneath the name.

Richard L. Whitt, Esquire

Whitt Law Firm, LLC

401 Western Lane, Suite E

Irmo, SC 29063

Phone: 803-995-7719

Email: Richard@RLWhitt.law

WE AGREE:

Representing BrightNight, LLC

A handwritten signature in blue ink that reads "Weston Adams, III". The signature is written in a cursive style with a horizontal line underneath the name.

Weston Adams, III, Esquire
Courtney E. Walsh, Esquire
Nelson Mullins Riley & Scarborough LLP
1320 Main Street
Meridian – 17th Floor
Columbia, SC 29201
Phone: 803-255-9254
Email: weston.adams@nelsonmullins.com
Email: court.walsh@nelsonmullins.com